

12-18-1985

Criminal Proceedings.

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Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

0370

Elections Division
(916) 445-0820

May 28, 1986

TO: ALL REGISTRARS OF VOTERS AND COUNTY CLERKS (86112)

FROM:


DEBORAH SEILER

Assistant to the Secretary of State
Elections and Political Reform

Pursuant to Elections Code 3520(b) you are hereby notified that the total number of signatures to the hereinafter named proposed INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE filed with all county clerks is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has failed.

TITLE: CRIMINAL PROCEEDINGS.
INITIATIVE CONSTITUTIONAL
AMENDMENT AND STATUTE.

SUMMARY DATE: December 18, 1985

PROPONENT: Sterling E. Norris

DS/lgw

F.INIT



Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

Elections Division
(916) 445-0820

December 18, 1985

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENT (8565)

Pursuant to Section 3513 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

CRIMINAL PROCEEDINGS.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

Circulating and Filing Schedule

1. Minimum number of signatures required.....630,136
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date.....Wednesday, 12/18/85
Elec. C., Sec. 3513.
3. Petition Sections:
 - a. First day Proponent can circulate Sections for signatures.Wednesday, 12/18/85
Elec. C., Sec. 3513.
 - b. Last day Proponent can circulate and file with the county.
All Sections are to be filed at the same time within each
county.....Monday, 5/19/86*
Elec. C., Secs. 3513, 3520(a).
 - c. Last day for county to determine total number of
signatures affixed to petition and to transmit total
to the Secretary of State.....Tuesday, 5/27/86++

(If the Proponent files the petition with the county on a date prior to 5/19/86, the county has five working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 3520(b).

* PLEASE NOTE: To the Proponent who may wish to qualify for the 1986 General Election. The law allows approximately 67 days for county election officials to check and report petition signatures and transmit results. The law also requires that this process be completed 131 days before the election in which the people will vote on the initiative. It is possible that the county may not need precisely 67 days. But if you want to be sure that this initiative qualifies for the 1986 General Election, you should file this petition with the county before April 18, 1986.

+ Date adjusted for official deadline which falls on a Saturday. Elec. C., Sec. 60.

++ Date adjusted for official deadline which falls on holiday. Elec. C., Sec. 60.

- d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties.....Monday, 6/2/86**
- e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State.....Tuesday, 6/17/86
- (If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 5/27/86, the last day is not later than the fifteenth day after the county's receipt of notification.)
Elec. C., Sec. 3520(d), (e).
- f. If the signature count is more than 693,149 or less than 567,123, then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 567,123 and 693,149 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures.....Monday, 6/23/86**
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State.....Wednesday, 7/23/86
- (If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 6/17/86, the last day is not later than the thirtieth day after county's receipt of notification.)
Elec. C., Sec. 3521(b), (c).
- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient.....Saturday, 7/26/86

**Date varies based on receipt of county certification.

4. Campaign Statements:

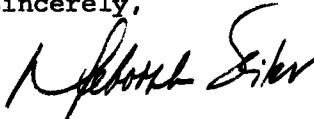
Last day to file a campaign statement of receipts
and expenditures for period ending 6/16/86Monday, 6/23/86

(If the Secretary of State finds that the measure has
either qualified or failed to qualify on a date earlier
than 5/19/86 the last date to file is the 35th calendar
day after the deadline for filing petitions or the date
of notification by the Secretary of State that the
measure has either qualified or failed to qualify, whichever
is earlier. The closing date for the campaign statement
is seven days prior to the filing deadline.)
Gov. C., Secs. 84200(d), 84202(j).

5. The Proponent of the above named measure is:

Sterling E. Norris
17213 Tuba
Northridge, California 91324
(213) 974-3706 Business phone
(818) 368-9317 Residence phone

Sincerely,



DEBORAH SEILER
Assistant to the Secretary of State
Elections and Political Reform

NOTE TO PROPONENT: Your attention is directed to Elections Code
Sections 41, 44, 3501, 3507, 3508, 3516, 3517, and 3519 for appropriate
format and type considerations in printing, typing, and otherwise preparing
your initiative petition for circulation and signatures. Your attention
is further directed to the campaign disclosure requirements of the
Political Reform Act of 1974, Government Code Section 81000 et seq.

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



1515 K STREET, SUITE 511
SACRAMENTO 95814
(916) 445-9555

December 18, 1985

0370 (916) 324-5472

Honorable March Fong Eu
Secretary of State
1230 J Street
Sacramento, California 95814

FILED
In the office of the Secretary of State
of the State of California

DEC 18 1985

Dear Mrs. Eu:

MARCH FONG EU, Secretary of State

By Barbara J. Lee
Deputy

Re: Initiative Title and Summary.
Our File No. SA85RF0014

Pursuant to the provisions of section 3503 and 3513 of the Elections code, you are hereby notified that on this day we mailed to the proponent(s) of the above identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent(s), a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name(s) and address(es) of the proponent(s) is as stated on the declaration of mailing.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

Robert Burton
Deputy Attorney General

Enclosure

(RF-10, 6/83)

Date: December 18, 1985
File No.: SA 85 RF 0014

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

CRIMINAL PROCEEDINGS. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE. Amends constitution to enact changes in criminal trial proceedings. Provides judges rather than attorneys shall question prospective jurors; questions limited to determining whether jurors can be challenged for cause. Requires that questioning be in presence of other jurors. Excepting death penalty cases, provides that verdict may be rendered by 10 of 12 jurors rather than by unanimous vote. Provides grand jury indictment is sufficient to compel a trial without a preliminary hearing. Requires Superior Court judges prepare and post specified reports, including sentences, plea bargains, and sentence recommendations. Makes other changes. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Some changes, especially those relating to the jury selection process and nonunanimous jury verdicts, probably would result in savings to state and local governments. Provisions imposing additional judicial recordkeeping requirements would result in additional costs to counties. Given data presently available, measure would probably result in unknown net savings to the state and local governments.

SECTION I. TITLE "CRIMINAL JUSTICE REFORM INITIATIVE"

SECTION II.

The people of the State of California find and declare that to protect the safety of its people from crime and to protect the Criminal Justice System from failing to function, four essential reforms must be instituted.

(1) JUDICIAL ACCOUNTABILITY:

PROBLEM: There is now no accountability of the courts in sentencing to the public. Records of judges are not kept and it is impossible for the public to know what their elected officials, the judges and District Attorneys are doing. This lack of accountability has led to both leniency and inefficiency.

SOLUTION: it will be required by law that records by judge be kept of all sentences. All plea bargains and positions of the various offices will have to be disclosed. Then every six months, these sentences and times will be summarized, putting all the sentences for a particular crime together so they can be easily compared.

(2) ELIMINATION OF LAWYER QUESTIONING OF JURORS:

PROBLEM: The questioning of jurors is now done by attorneys and the court. This had led to such an abuse that over one-third of the court time is consumed in this practice. Additionally, the California Supreme Court has required all death penalty questioning to be done individually outside the presence of other jurors. This has lengthened the process by at least four times what it used to be. It has resulted in requiring months of jury selection and has consequently created one of the greatest areas of inefficiency and tremendous cost to the taxpayer.

SOLUTION: It would require adoption of the system used in the federal courts where only the judge is allowed to do the questioning, and all questioning of jurors is done in the presence of other jurors. This will result in the selection of a jury in a matter of hours or days as compared with weeks and months.

(3) TEN to TWO VERDICT IN ALL CRIMINAL CASES EXCEPT IN PENALTY PHASE OF DEATH PENALTY TRIAL.

PROBLEM: The law now requires a unanimous verdict - 12 out of 12. This requirement flies in the face of reality; 12 people will rarely ever agree on any specific thing. There is always a degree of compromise. It has also made the system easy to abuse, since defense attorneys will not try the case to win acquittal, but to hang the jury with one or two dissenting votes so they can bring pressure to

bear to get the defendant a better deal.

SOLUTION: The required number would be changed to 10 out of 12. keeping the same standard of proof of beyond a reasonable doubt. This would make the system much more realistic and would still retain the degree of certainty that we want in the criminal justice system. It will provide a margin of safety to take into account those jurors who from mental instability, a racial philosophy, or a desire for attention would disrupt the system by intentionally hanging the jury for their own ends.

(4) REINSTATEMENT OF THE GRAND JURY: POWER TO HAVE A CRIMINAL DEFENDANT STAND TRIAL:

PROBLEM: The California Supreme Court in 1978 eliminated the Grand Jury as a means of requiring a defendant to stand trial. Prior to that the District Attorney had used the Grand Jury as an effective means of getting many sensitive and complex cases to trial without subjecting the witnesses to the adversary process.

SOLUTION: To reinstate the Grand Jury as it was prior to the Supreme Court ruling, allowing the Grand Jury to bind the defendant to stand trial without requiring any judicial preliminary hearing.

SECTION III. JUDICIAL ACCOUNTABILITY. Section 27 is added to Article VI of the Constitution to read:

Each superior court judge must prepare a weekly written report of sentencing. The report must be placed on the door or vestibule of the courtroom and in the public area of the central clerk's office.

The report must contain the following:

A. COURT RECORDS:

- (1) Each defendant's name, the case numbers and judge's name.
- (2) The charges filed.
- (3) The case resolution, including
 - (a) court or jury trial.
 - (b) any plea or sentence bargain conditions.
 - (c) any plea or sentence bargain agreement by the prosecutor or investigating law enforcement agency.
 - (d) The maximum penalty for the charges of which the defendant is convicted.
 - (e) The probation officer and prosecutor's sentence recommendation,
 - (f) The sentence, and
 - (g) any comment the court wishes to include.

B. SIX MONTHS SUMMARY:

Every six months each judge shall also prepare a report compiling the statistics of the weekly reports and post it in the same manner as the weekly reports. On the 6 month reports, the sentences relating to the same type of crime shall be grouped together.

C. PREPARATION OF RECORD:

Said records are to be prepared by the court clerk and signed by the

judge. On a monthly basis, the judge shall certify under penalty of perjury to the County Auditor that he has complied with the preparation of such records or all pay and allowances will be withheld by County and State auditors.

SECTION IV. JURY VOIR DIRE (QUESTIONS OF JURORS) IN CRIMINAL ACTIONS.

Section _____ added to Article I of the Constitution to read:

Notwithstanding any other provision of the Constitution, Voir Dire in a criminal action shall proceed as provided in this section. Voir Dire so conducted does not violate any provision of the Constitution.

Voir Dire is limited to questions assisting counsel in the exercise of challenges for cause. The questions shall be asked by court rather than by counsel. If counsel desires to ask a question, it shall be submitted to the court. A questionnaire submitted directly to the jurors after review by the court and counsel, for written response by the jurors shall be used where practical. The court has discretion to determine whether a question submitted by counsel assists in the exercise of challenges for cause. Voir Dire of any juror shall occur in the presence of the other jurors, including death penalty cases.

SECTION V. JURY VERDICTS. Section 16 of the Article I of the Constitution is amended to read:

Section 16. Trial by jury is an inviolate right and shall be secured to all. In a civil cause, three-fourths of the jury may render a verdict. Notwithstanding any other provision of this Constitution, in a criminal action, 10 jurors may render a verdict. The verdict shall be unanimous on the penalty phase of a trial when the penalty of death is sought.

A jury may be waived in a criminal cause by consent of both parties expressed in open court by the defendant and the defendant's counsel. In a civil cause, a jury may be waived by the consent of the parties expressed as prescribed by statute.

In civil causes, the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. In civil causes in municipal or justice court, the Legislature may provide that the jury shall consist of eight persons, or a lesser number agreed on by the parties in open court.

In criminal actions in which a felony is charged, the jury shall consist of 12 persons. In criminal actions in which a misdemeanor is charged, the jury shall consist of 12 persons or a lesser number agreed on by the parties in the open court. If the parties in a misdemeanor criminal action agree that the jury shall consist of 9 or fewer persons, the jury verdict shall be unanimous.

SECTION VI. GRAND JURY INDICTMENTS. Section _____ is added to Article I of the Constitution to read:

A grand jury indictment is sufficient to compel a trial for a criminal defendant on the charges it contains. After a grand jury has returned an indictment, no court may cause to be held a preliminary examination or any other hearing before a judge or magistrate, at which evidence is admitted for the purpose of determining whether there is sufficient cause to believe the defendant guilty of a public offense. The denial of an examination or hearing to an indicted defendant does not violate any provision of the Constitution.

SECTION VII. POLLING THE JURY WHEN A VERDICT IS RENDERED

Section _____ of the penal code is amended to read:

Polling the Jury. When a verdict is rendered, and before it is recorded, the jury may be polled, at the request of either party, in which case they must be severly asked whether it is their verdict, and if any one answers in the negative, the jury must be sent out for further deliberation only if the number of jurors answering in the negative would prevent the rendering of a verdict under the provisions of article I, section 16, of the California Constitution.

SECTION VIII. RECORDING THE VERDICT

Section _____ of the penal code is amended, to read:

When the verdict given is such as the court may receive, the clerk of, if there is no clerk, the judge or justice, must record it in roll upon the minutes, and if requested by any party must read it to the jury, and inquire of them whether it is their verdict. If any juror disagrees, the fact must be entered upon the minutes, but the jury must again be sent out only if the number of jurors disagreeing prevents the rendering of a verdict under provisions of article one, section 16, of the California Constitution, but if no disagreement is expressed, or if any disagreement expressed does not prevent the rendering of a verdict under the provisions of article I, section 16, of the California Constitution, the verdict is complete, and the jury must be discharged from the case.

SECTION IX. SCOPE OF APPLICATION OF INITIATIVE

The provisions of this initiative measure shall apply to all criminal proceedings conducted on or after the date that this measure becomes effective, regardless of when the crime is alleged to have been committed.

SECTION X. SEVERABILITY CLAUSE

If any section, part, clause or phrase of this initiative measure or the application thereof to any person or circumstances is held invalid such invalidity shall not affect other provisions or application of the measure which can be given effect without the invalid provision or application, and to this end the provisions of this initiative measure are severable.

DECLARATION OF MAILING

The undersigned Declarant, states as follows:

I am over the age of 18 years and not a proponent of the within matter; my place of employment and business address is 1515 K Street, Suite 511, Sacramento, California 95814.

On the date shown below, I mailed a copy or copies of the attached letter to the proponents, by placing a true copy thereof in an envelope addressed to the proponents named below at the addresses indicated, and by sealing and depositing said envelope or envelopes in the United States mail at Sacramento, California, with postage prepaid. There is delivery service by United States mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed.

Date of Mailing: December 18, 1985

Subject: Criminal Proceedings

Our File No.: SA85RF0014

Name of Proponent(s) and Address(es):

Sterling E. Norris
17213 Tuba
Northridge, CA 91324

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Sacramento, California on
December 18, 1985.


Declarant

October 16, 1985

Mr. Burton
Attorney General's Office
555 Capitol Mall, Suite 350
Sacramento, California 95814

Dear Mr. Burton:

I am hereby applying for a title and summary for the enclosed criminal justice initiative. I am the proponent of the said initiative. My residential address and phone numbers are as follows:

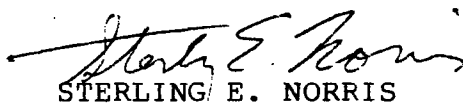
Sterling E. Norris
17213 Tuba
Northridge, CA 91324

Business phone: (213) 974-3706
Residence phone: (818) 368-9317

Enclosed is a \$200 check made out to the Attorney General.

In our telephone covnersation, you indicated that it might take as long as six weeks for you to accomplish the title and summary. If you need additional information or clarification, please contact me at the above address and telephone numbers.

Sincerely,


STERLING E. NORRIS

Enclosure

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



1515 K STREET, SUITE 511
SACRAMENTO 95814
(916) 445-9555

December 18, 1985

(916) 324-5472

Sterling E. Norris
17213 Tuba
Northridge, CA 91324

Re: Initiative Title and Summary.
Subject: Criminal Proceedings
Our File No. SA85RF0014

Pursuant to your request, we have prepared the attached title and summary of the chief purposes and points of the above identified proposed initiative. A copy of our letter to the Secretary of State, as required by Elections Code sections 3503 and 3513, our declaration of mailing, and the text of your proposal that was considered is attached.

The Secretary of State will be sending you shortly a copy of the circulating and filing schedule for your proposal that will be issued by that office.

Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

A handwritten signature in cursive script, appearing to read "Robert Burton", is written over the typed name.

Robert Burton
Deputy Attorney General

Attachment



Barbara Lee

NEWS RELEASE

from: Secretary of State March Fong Eu
1230 J Street, Sacramento, CA 95814
(916) 445-6375

370 371
372

For Immediate Release
December 19, 1985

Contact: Caren Daniels-Meade

THREE NEW INITIATIVES ENTER CIRCULATION REPORTS EU

SACRAMENTO — Criminal trial proceedings, disclosure of pesticide use and the death penalty are the subjects of three new initiative petitions which have been approved for circulation, Secretary of State March Fong Eu announced today (Dec. 19).

"Criminal Proceedings" would amend the constitution to enact changes in criminal trial proceedings. Under its provisions, judges rather than attorneys would question prospective jurors with questions limited to determining whether jurors could be challenged for cause and asked in the presence of other jurors. It further provides that a grand jury indictment would be sufficient to compel a trial without a preliminary hearing and that, except in death penalty cases, a verdict could be rendered by ten of the twelve jurors rather than by a unanimous vote.

Sterling E. Norris of Northridge is spearheading the drive to qualify the measure. He can be reached at his business telephone, (213) 974-3706, or at his residence, (818) 368-9317.

Robert Boesch of San Francisco is the proponent of a measure that would declare food adulterated if radiation treatments or pesticides applied to it or used on raw agricultural commodities were not disclosed to consumers and increases the criminal penalties for selling adulterated food. The measure would make it illegal to pack, ship, or sell produce without "complete disclosure of all pesticide chemicals used" on it.

Proponent Boesch can be reached at (415) 564-5235.

Assemblyman Ross Johnson, R-Fullerton, is proposing a measure to be known as the "Save the Death Penalty Act of 1986." It defines when a death penalty case has been received by the the court and is ready for a decision. If the case

(over)

were to remain undecided for 90 days after certain events specified in the measure had occurred, the controller would be required to withhold the judge's salary. It would also require that prospective jurors in capital cases be examined in the presence of other prospective jurors except in cases of extraordinary circumstances. Under provisions of the measure, the Supreme Court would be required to give priority to appeals from death penalty judgments.

Proponent Johnson can be reached at (916) 445-7448.

"Criminal Proceedings" is an initiative constitutional amendment and statute which requires 630,136 signatures of registered voters to earn a spot on the ballot. "Disclosure of Use of Pesticides or Radiation on Food" and "Death Penalty" are initiative statutes requiring 393,835 signatures to qualify. The legal 150-day deadline for submission of signatures to county elections officials is May 19. However, should the proponents of any of the three measures wish to qualify their petitions for the 1986 general election ballot, they are encouraged to submit all signatures before April 18 in order to allow sufficient time for the full signature verification process before the constitutional deadline of June 26.

Copies of the initiatives, their titles and summaries and circulation calendars are attached.

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8542MW

RECEIVED
In the office of the Secretary of State
of the State of California

DEC 20 1985

MARCH FONG EU, Secretary of State